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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 149

[Docket No. APHIS-2020-0065]

RIN 0579-AE59

Elimination of the Voluntary Trichinae Certification Program

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations to eliminate the Animal and Plant Health Inspection Service (APHIS) Voluntary Trichinae Certification Program and remove the regulations associated with the program. This action also notifies the public that APHIS will no longer maintain any activity associated with the program, such as training for qualified accredited veterinarians, on-farm audits, or any other administrative process associated with program maintenance and support. We are eliminating the program because it generates little producer participation. This action allows APHIS to direct APHIS resources to areas of greater need.

DATES: Effective [Insert date 30 days after date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Dr. María Celia Antognoli, Swine Health Senior Staff Officer, Aquaculture, Swine, Equine and Poultry Health Center, Strategy and Policy, VS, APHIS, 2150 Centre Ave, Bldg. B, Fort Collins, CO 80526-8117; (970) 494-7304; celia.antognoli@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

Trichinella are parasitic nematodes (roundworms) that are found in many warm-blooded carnivores and omnivores, including swine. There are eight known species of *Trichinella* nematodes: *Trichinella britovi*, *Trichinella murrelli*, *Trichinella nativa*, *Trichinella nelsoni*, *Trichinella papuae*, *Trichinella pseudospiralis*, *Trichinella spiralis*, and *Trichinella zimbabwensis*. Trichinae is a generic term that refers to all species of *Trichinella*.

In 2008, the Animal and Plant Health Inspection Service (APHIS) established the Voluntary Trichinae Certification Program, the regulations for which were contained in 9 CFR part 149. Those regulations provided for the certification of pork production sites that follow certain prescribed management practices that reduce, eliminate, or avoid the risk of exposure of swine to *Trichinella* spp. Under the regulations, a producer's initial enrollment and continued participation in the Trichinae Certification Program required that the producer adhere to all of the good production practices set out in the regulations, as confirmed by periodic site audits, and comply with other recordkeeping and program requirements provided in part 149.

Producer participation in this voluntary program has decreased since the program began. Only two producers re-enrolled in the past 3 years. The lack of producer interest and involvement has become problematic for a number of reasons. Maintaining the program places demands on limited APHIS funding and human resources that could be better directed elsewhere. In addition, the existence of a program that producers have little interest in has had trade implications. Trading partners have questioned our ability to certify freedom of trichinae in exported products, given that the vast majority of the products are not produced under the auspices of the Trichinae Certification Program.

In a proposed rule¹ published in the *Federal Register* on March 3, 2021, (86 FR 12293-12294; Docket No. APHIS-2020-0065), we proposed to eliminate the Voluntary Trichinae

¹To view the proposed rule, supporting document, and the comments we received, go to www.regulations.gov. Enter APHIS-2020-0065 in the Search field.

Certification Program by removing part 149 from the regulations. We also notified the public that we would no longer maintain any activity associated with the program, such as training for qualified accredited veterinarians, on-farm audits, or any other administrative process associated with program maintenance and support. The proposed elimination of the program was intended to benefit the swine industry by reducing possible confusion about the trichinae-free status of exported products, while allowing APHIS to avoid incurring the costs associated with program administration and payments to auditors and to address its resources to areas of greater need.

We solicited comments concerning our proposal for 60 days ending May 3, 2021. We received 5 comments by that date. They were from individual commenters without institutional affiliations. All the commenters supported the proposed rule. Therefore, for the reasons given in the proposed rule, we are adopting the proposed rule as a final rule, without change.

Executive Order 12866 and Regulatory Flexibility Act

This final rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. The analysis is summarized below. Copies of the full analysis are available on the Regulations.gov website (see footnote 1 in this document for a link to Regulations.gov) or by contacting the person listed under FOR FURTHER INFORMATION CONTACT.

In this final rule, APHIS is eliminating the Voluntary Trichinae Certification Program and removing its associated regulations from title 9 of the Code of Federal Regulations.

Producer participation has decreased significantly since the voluntary program began. Only 2 producers with 23 audit sites re-enrolled in the past 3 years. Continuation of the program given the lack of producer participation is difficult to justify, especially as it may have trade implications. APHIS plays a crucial role in supporting the U.S. pork industry and its exports, which have increased substantially in recent years. Since 2007, U.S. pork exports have more

than doubled in value (110 percent increase) and in quantity (109 percent increase). Trading partners, however, have questioned our ability to certify freedom of trichinae in exported products, given that the vast majority of the products are not produced under the auspices of the Voluntary Trichinae Certification Program.

The Small Business Administration (SBA) small business size standard for hog and pig farming is annual revenue of not more than \$1 million. According to the 2017 Agricultural Census, 64,871 hog and pig farms sold over 235 million hogs and pigs, with total sales of \$26.3 billion in 2017. Average annual sales per farm was 3,267 head valued at \$404,907, well below the SBA small-entity standard.

Because the Voluntary Trichinae Certification Program did not progress beyond the pilot stage, the participating producers have not borne program costs.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 2 CFR chapter IV.)

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

Paperwork Reduction Act

This final rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and will reduce those currently approved by the Office of Management and Budget under control number 0579-0065.

List of Subjects in 9 CFR Part 149

Animal diseases, Laboratories, Meat and meat products, Meat inspection, Reporting and recordkeeping requirements, Swine.

PART 149—[REMOVED]

Accordingly, for the reasons stated in the preamble, and under the authority of 7 U.S.C. 8301 *et seq.*, the Animal and Plant Health Inspection Service is amending 9 CFR chapter I by removing part 149.

Done in Washington, DC, this 10th day of September 2021.

Jack Shere

Acting Administrator, Animal and Plant Health Inspection Service.